



House of Representatives

General Assembly

File No. 469

January Session, 2011

Substitute House Bill No. 6526

House of Representatives, April 7, 2011

The Committee on Commerce reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT AS AN ECONOMIC DRIVER.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-9cc of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) There is established, within the Department of Economic and
4 Community Development, an Office of Brownfield Remediation and
5 Development. In addition to the other powers, duties and
6 responsibilities provided for in this chapter, the office shall promote
7 and encourage the development and redevelopment of brownfields in
8 the state. For that purpose, the Commissioner of Economic and
9 Community Development shall appoint a director who shall oversee
10 all activities of the office and who shall report to the commissioner.
11 The director shall coordinate and cooperate with state and local
12 agencies and individuals within the state on brownfield
13 redevelopment initiatives, including program development and
14 administration, community outreach, regional coordination and

15 seeking federal funding opportunities. The commissioner shall make
16 available to the director appropriate staffing, technical and financial
17 assistance and advisory services necessary to accomplish the duties of
18 the office.

19 (b) The office shall:

20 (1) Develop procedures and policies for streamlining the process for
21 brownfield remediation and development;

22 (2) Identify existing and potential sources of funding for brownfield
23 remediation and develop procedures for expediting the application for
24 and release of such funds;

25 (3) Establish an office and maintain an informational Internet web
26 site to provide assistance and information concerning the state's
27 technical assistance, funding, regulatory and permitting programs;

28 (4) Provide a single point of contact for financial and technical
29 assistance from the state and quasi-public agencies;

30 (5) Develop a common application to be used by all state and quasi-
31 public entities providing financial assistance for brownfield
32 assessment, remediation and development; and

33 (6) Identify and prioritize state-wide brownfield development
34 opportunities; and

35 (7) Develop and execute a communication and outreach program to
36 educate municipalities, economic development agencies, property
37 owners and potential property owners and other organizations and
38 individuals with regard to state [policies and procedures] programs for
39 brownfield remediation and redevelopment.

40 (c) Subject to the availability of funds, there shall be a state-funded
41 [pilot] municipal brownfield grant program to identify brownfield
42 remediation economic opportunities in [five] Connecticut
43 municipalities. For each round of funding, the Commissioner of

44 Economic and Community Development may select at least six
45 municipalities, one of which shall have a population of less than fifty
46 thousand, one of which shall have a population of more than fifty
47 thousand but less than one hundred thousand, two of which shall have
48 populations of more than one hundred thousand and [one] two of
49 which shall be selected without regard to population. The
50 Commissioner of Economic and Community Development shall
51 designate [five pilot] municipalities in which untreated brownfields
52 hinder economic development and shall make grants under such
53 [pilot] program to these municipalities or economic development
54 agencies associated with each of the [five] selected municipalities that
55 are likely to produce significant economic development benefit for the
56 designated municipality.

57 (d) The Department of Environmental Protection, the Connecticut
58 Development Authority, the Office of Policy and Management and the
59 Department of Public Health shall each designate one or more staff
60 members to act as a liaison between their offices and the Office of
61 Brownfield Remediation and Development. The Commissioners of
62 Economic and Community Development, Environmental Protection
63 and Public Health, the Secretary of the Office of Policy and
64 Management and the executive director of the Connecticut
65 Development Authority shall enter into a memorandum of
66 understanding concerning each entity's responsibilities with respect to
67 the Office of Brownfield Remediation and Development. The Office of
68 Brownfield Remediation and Development may [develop and] recruit
69 two volunteers from the private sector, including a person from the
70 Connecticut chapter of the National Brownfield Association, with
71 experience in different aspects of brownfield remediation and
72 development. Said volunteers may assist the Office of Brownfield
73 Remediation and Development in [achieving the goals of this section]
74 marketing the brownfields programs and activities of the state.

75 (e) The Office of Brownfield Remediation and Development may
76 call upon any other department, board, commission or other agency of
77 the state to supply such reports, information and assistance as said

78 office determines is appropriate to carry out its duties and
79 responsibilities. Each officer or employee of such office, department,
80 board, commission or other agency of the state is authorized and
81 directed to cooperate with the Office of Brownfield Remediation and
82 Development and to furnish such reports, information and assistance.

83 (f) Brownfield sites identified for funding under the [pilot] grant
84 program established in subsection (c) of this section shall receive
85 priority review status from the Department of Environmental
86 Protection. Each property funded under this program shall be
87 investigated in accordance with prevailing standards and guidelines
88 and remediated in accordance with the regulations established for the
89 remediation of such sites adopted by the Commissioner of
90 Environmental Protection or pursuant to section 22a-133k, as amended
91 by this act, and under the supervision of the department or a licensed
92 environmental professional in accordance with the voluntary
93 remediation program established in section 22a-133x. In either event,
94 the department shall determine that remediation of the property has
95 been fully implemented or that an audit will not be conducted upon
96 submission of a report indicating that remediation has been verified by
97 an environmental professional licensed in accordance with section 22a-
98 133v. Not later than ninety days after submission of the verification
99 report, the Commissioner of Environmental Protection shall notify the
100 municipality or economic development agency as to whether the
101 remediation has been performed and completed in accordance with
102 the remediation standards, whether an audit will not be conducted, or
103 whether any additional remediation is warranted. For purposes of
104 acknowledging that the remediation is complete, the commissioner or
105 a licensed environmental professional may indicate that all actions to
106 remediate any pollution caused by any release have been taken in
107 accordance with the remediation standards and that no further
108 remediation is necessary to achieve compliance except
109 postremediation monitoring [.] or natural attenuation monitoring. [or
110 the recording of an environmental land use restriction.]

111 (g) All relevant terms in this subsection, subsection (h) of this

112 section [,] and sections 32-9dd to 32-9ff, inclusive, as amended by this
113 act, [and section 11 of public act 06-184] shall be defined in accordance
114 with the definitions in chapter 445. For purposes of subdivision (12) of
115 subsection (a) of section 32-9t, this subsection, subsection (h) of this
116 section [,] and sections 32-9dd to 32-9gg, inclusive, [and section 11 of
117 public act 06-184,] "brownfields" means any abandoned or
118 underutilized site where redevelopment, [and] reuse [has not occurred
119 due to] or expansion may be complicated by the presence of pollution
120 in the buildings, soil or groundwater that requires investigation or
121 remediation [prior to] before or in conjunction with the restoration,
122 redevelopment [and] or reuse or expansion of the property.

123 (h) The Departments of Economic and Community Development
124 and Environmental Protection shall administer the provisions of
125 subdivision (1) of section 22a-134, as amended by this act, section 32-
126 1m, subdivision (12) of subsection (a) of section 32-9t [,] and sections
127 32-9cc to 32-9gg, inclusive, as amended by this act, [and section 11 of
128 public act 06-184] within available appropriations and any funds
129 allocated pursuant to sections 4-66c, 22a-133t and 32-9t.

130 Sec. 2. Section 32-9ee of the general statutes is repealed and the
131 following is substituted in lieu thereof (*Effective July 1, 2011*):

132 (a) Any municipality, economic development agency or entity
133 established under chapter 130 or 132, nonprofit economic development
134 corporation formed to promote the common good, general welfare and
135 economic development of a municipality that is funded, either directly
136 or through in-kind services, in part by a municipality, or a nonstock
137 corporation or limited liability company controlled or established by a
138 municipality, municipal economic development agency or entity
139 created or operating under chapter 130 or 132 that receives grants
140 through the Office of Brownfield Remediation and Development or the
141 Department of Economic and Community Development, including
142 those municipalities designated by the Commissioner of Economic and
143 Community Development as part of the [pilot] municipal brownfield
144 grant program established in subsection (c) of section 32-9cc, as

145 amended by this act, for the investigation and remediation of a
146 brownfield property shall be considered an innocent party and shall
147 not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452 for
148 conditions pre-existing or existing on the brownfield property as of the
149 date of acquisition or control as long as the municipality, economic
150 development agency or entity established under chapter 130 or 132,
151 nonprofit economic development corporation formed to promote the
152 common good, general welfare and economic development of a
153 municipality that is funded, either directly or through in-kind services,
154 in part by a municipality, or a nonstock corporation or limited liability
155 company controlled or established by a municipality, municipal
156 economic development agency or entity created or operating under
157 chapter 130 or 132 did not establish, cause or contribute to the
158 discharge, spillage, uncontrolled loss, seepage or filtration of such
159 hazardous substance, material, waste or pollution that is subject to
160 remediation under section 22a-133k, as amended by this act, and
161 funded by the Office of Brownfield Remediation and Development or
162 the Department of Economic and Community Development; does not
163 exacerbate the conditions; and complies with reporting of significant
164 environmental hazard requirements in section 22a-6u. To the extent
165 that any conditions are exacerbated, the municipality, economic
166 development agency or entity established under chapter 130 or 132,
167 nonprofit economic development corporation formed to promote the
168 common good, general welfare and economic development of a
169 municipality that is funded, either directly or through in-kind services,
170 in part by a municipality, or nonstock corporation or limited liability
171 company controlled or established by a municipality, municipal
172 economic development agency or entity created or operating under
173 chapter 130 or 132 shall only be responsible for responding to
174 contamination exacerbated by its negligent or reckless activities.

175 (b) In determining what funds shall be made available for an
176 eligible brownfield remediation, the Commissioner of Economic and
177 Community Development shall consider (1) the economic
178 development opportunities such reuse and redevelopment may
179 provide, (2) the feasibility of the project, (3) the environmental and

180 public health benefits of the project, and (4) the contribution of the
181 reuse and redevelopment to the municipality's tax base.

182 (c) No person shall acquire title to or hold, possess or maintain any
183 interest in a property that has been remediated in accordance with the
184 [pilot] municipal brownfield grant program established in subsection
185 (c) of section 32-9cc, as amended by this act, if such person (1) is liable
186 under section 22a-432, 22a-433, 22a-451 or 22a-452; (2) is otherwise
187 responsible, directly or indirectly, for the discharge, spillage,
188 uncontrolled loss, seepage or filtration of such hazardous substance,
189 material or waste; (3) is a member, officer, manager, director,
190 shareholder, subsidiary, successor of, related to, or affiliated with,
191 directly or indirectly, the person who is otherwise liable to under
192 section 22a-432, 22a-433, 22a-451 or 22a-452; or (4) is or was an owner,
193 operator or tenant. If such person elects to acquire title to or hold,
194 possess or maintain any interest in the property, that person shall
195 reimburse the state of Connecticut, the municipality and the economic
196 development agency for any and all costs expended to perform the
197 investigation and remediation of the property, plus interest at a rate of
198 eighteen per cent.

199 Sec. 3. Section 32-9ff of the general statutes is repealed and the
200 following is substituted in lieu thereof (*Effective July 1, 2011*):

201 (a) There is established an account to be known as the "Connecticut
202 brownfields remediation account" which shall be a separate,
203 nonlapsing account within the General Fund. The account shall
204 contain any moneys required by law to be deposited in the account
205 and shall be held separate and apart from other moneys, funds and
206 accounts. Investment earnings credited to the account shall become
207 part of the assets of the account. Any balance remaining in the account
208 at the end of any fiscal year shall be carried forward in the account for
209 the next fiscal year.

210 (b) The Office of Brownfield Remediation and Development,
211 established in subsections (a) to (f), inclusive, of section 32-9cc, as
212 amended by this act, may use amounts in the account established

213 pursuant to subsection (a) of this section to fund remediation and
214 restoration of brownfield sites as part of the [pilot] municipal
215 brownfield grant program established in subsection (c) of section 32-
216 9cc, as amended by this act.

217 Sec. 4. Section 22a-134a of the general statutes is amended by adding
218 subsection (n) as follows (*Effective from passage*):

219 (NEW) (n) Notwithstanding any other provision of this section, the
220 execution of a Form III or a Form IV shall not require a certifying party
221 to investigate or remediate any release or potential release of pollution
222 at the parcel that occurs from and after the date of the transfer of
223 establishment for which such Form III or Form IV was signed or from
224 and after the date such Form III or Form IV was filed with the
225 commissioner, whichever is later.

226 Sec. 5. Section 22a-133k of the general statutes is amended by
227 adding subsection (c) as follows (*Effective from passage*):

228 (NEW) (c) The commissioner shall review and recommend revisions
229 to the standards for the remediation of environmental pollution at
230 hazardous waste disposal sites and other properties which have been
231 subject to a spill, as defined in section 22a-452c, as have been adopted
232 pursuant to subsection (a) of this section three years after the effective
233 date of this section. Every five years thereafter, the commissioner shall
234 hold a public hearing on the adequacy of such standards and shall
235 revise such standards as may be deemed necessary to ensure that the
236 regulations shall fully protect health, public welfare and the
237 environment, with due consideration of the impact of such standards
238 on brownfield remediation and redevelopment and the remediation of
239 other contaminated properties in the state, the feasibility of such
240 regulations, and the consistency of such regulations with the best
241 scientifically available information and the standards and methods
242 adopted by the federal government.

243 Sec. 6. Section 22a-426 of the general statutes, as amended by section
244 9 of public act 10-158, is amended by adding subsections (d) to (g),

245 inclusive, as follows (*Effective from passage*):

246 (NEW) (d) The state's water quality standards, including the surface
247 and ground water classifications, in effect on February 28, 2011, shall
248 remain in full force and effect, unless modified in accordance with
249 subsections (a), (e), (f) and (g) of this section. On or after March 1, 2011,
250 the commissioner may reclassify surface or ground waters within the
251 state in accordance with the procedures specified in subsections (e), (f)
252 and (g) of this section.

253 (NEW) (e) Notwithstanding the provisions of subsection (a) of this
254 section and chapter 54, the following procedures shall apply to any
255 surface or ground water reclassification initiated by the commissioner:
256 (1) The commissioner shall hold a public hearing in accordance with
257 subdivision (3) of subsection (f) of this section. Such public hearing
258 shall not be considered a contested case pursuant to chapter 54; (2)
259 notice of such hearing specifying the surface or ground waters for
260 which reclassification is proposed and the time, date and place of such
261 hearing and how members of the public may obtain additional
262 information regarding such reclassification shall be published once in a
263 newspaper having a substantial circulation in the affected area at least
264 thirty days before such hearing; and (3) notice of the time, date and
265 place of such hearing shall also be provided to municipal officials.
266 Following the public hearing, the commissioner shall provide notice of
267 the reclassification decision in the Connecticut Law Journal and to the
268 chief elected official and the director of health of each municipality in
269 which the water affected by such reclassification is located.

270 (NEW) (f) Notwithstanding the provisions of subsection (a) of this
271 section and chapter 54, the following procedures shall apply to any
272 surface or groundwater reclassification requested by a person other
273 than the commissioner: (1) Any person seeking a reclassification shall
274 apply to the commissioner on forms prescribed by the commissioner
275 and shall provide the information required by such forms; (2) at least
276 thirty days before the hearing specified in subdivision (3) of this
277 subsection, the commissioner shall publish or cause to be published, at

278 the expense of the person seeking a reclassification, once in a
279 newspaper having a substantial circulation in the affected area (A) the
280 name of the person seeking a reclassification, (B) an identification of
281 the surface or ground waters affected by such reclassification, (C)
282 notice of the commissioner's tentative determination regarding such
283 reclassification, (D) how members of the public may obtain additional
284 information regarding such reclassification, and (E) the time, date and
285 place of a public hearing regarding such reclassification. Any such
286 notice shall also be given by certified mail to the chief executive officer
287 of each municipality in which the water affected by such
288 reclassification is located, with a copy to the director of health of each
289 municipality, at least thirty days before the hearing; (3) the
290 commissioner shall conduct a public hearing regarding any tentative
291 determination to reclassify surface or ground waters. The public
292 hearing shall be conducted in a manner which affords all interested
293 persons reasonable opportunity to provide oral or written comments
294 and the commissioner shall maintain a recording of the hearing; and
295 (4) following the public hearing, the commissioner shall provide notice
296 of the reclassification decision in the Connecticut Law Journal and to
297 the chief elected official and the director of health of each municipality
298 in which the water affected by such reclassification is located.

299 (NEW) (g) Any decision by the commissioner to reclassify surface or
300 ground water shall be consistent with the state's water quality
301 standards and the commissioner shall comply with all applicable
302 federal requirements regarding reclassification of surface water.

303 Sec. 7. (*Effective from passage*) Not later than seven days after the
304 effective date of this section, within available resources, the
305 Commissioner of Environmental Protection shall commence a
306 comprehensive evaluation of the property remediation programs and
307 the provisions of the general statutes that affect property remediation.
308 Not later than February 1, 2012, the commissioner shall issue a
309 comprehensive report, in accordance with section 11-4a of the general
310 statutes, to the Governor and to the joint standing committees of the
311 General Assembly having cognizance of matters relating to the

environment and commerce. The evaluation shall include (1) factors that influence the length of time to complete investigation and remediation under existing programs; (2) the number of properties that have entered into each property remediation program, the rate by which properties enter and the number of properties that have completed the requirements of each property remediation program; (3) the use of licensed environmental professionals in expediting property remediation; (4) audits of verifications rendered by licensed environmental professionals; (5) the programs provided for in chapters 445 and 446k of the general statutes that provide liability relief for potential and existing property owners; (6) a comparison of existing programs to states with a single remediation program; (7) the use by the commissioner of resources when adopting regulations such as studies published by other federal and state agencies, the Connecticut Academy of Science and Engineering or other such research organization and university studies; and (8) recommendations that will address issues identified in the report or improvements that may be necessary for a more streamlined or efficient remediation process.

Sec. 8. Subdivision (1) of subsection (a) of section 32-9kk of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(1) "Brownfield" means any abandoned or underutilized site where redevelopment, [and reuse has not occurred due to] reuse or expansion may be complicated by the presence or potential presence of pollution in the buildings, soil or groundwater that requires investigation or remediation before or in conjunction with the restoration, redevelopment and reuse of the property;

Sec. 9. Section 22a-6 of the general statutes is amended by adding subsections (i) and (j) as follows (*Effective from passage*):

(NEW) (i) Notwithstanding the provisions of subsection (a) of this section, no person shall be required to pay any fee established by the commissioner pursuant to section 22a-133x, 22a-133aa, as amended by this act, 22a-134a, as amended by this act, or 22a-134e for any new or

345 pending application, provided such person has received financial
346 assistance from any department, institution, agency or authority of the
347 state for the purpose of investigation or remediation, or both, of a
348 brownfield site, as defined in section 32-9kk, as amended by this act,
349 and such activity would otherwise require a fee to be paid to the
350 commissioner for the activity conducted with such financial assistance.

351 (NEW) (j) Notwithstanding the provisions of subsection (a) of this
352 section, no department, institution, agency or authority of the state or
353 the state system of higher education shall be required to pay any fee
354 established by the commissioner pursuant to section 22a-133x, 22a-
355 133aa, as amended by this act, 22a-134a, as amended by this act, or 22a-
356 134e for any new or pending application, provided such division of the
357 state is conducting an investigation or remediation, or both, of a
358 brownfield site, as defined in section 32-9kk, as amended by this act,
359 and siting a state facility on such brownfield site.

360 Sec. 10. Section 32-9ll of the general statutes is repealed and the
361 following is substituted in lieu thereof (*Effective July 1, 2011*):

362 (a) There is established an abandoned brownfield cleanup program.
363 The Commissioner of Economic and Community Development shall
364 determine, in consultation with the Commissioner of Environmental
365 Protection, properties and persons eligible for said program.

366 (b) For a person, [and] a municipality or a property to be eligible,
367 the Commissioner of Economic and Community Development shall
368 determine if (1) the property is a brownfield, as defined in section 32-
369 9kk, as amended by this act, and such property has been unused or
370 significantly underused [since October 1, 1999] for at least five years
371 before an application filed with the commissioner pursuant to
372 subsection (g) of this section; (2) such person or municipality intends
373 to acquire title to such property for the purpose of redeveloping such
374 property; (3) the redevelopment of such property has a regional or
375 municipal economic development benefit; (4) such person or
376 municipality did not establish or create a facility or condition at or on
377 such property that can reasonably be expected to create a source of

378 pollution to the waters of the state for the purposes of section 22a-432
379 and is not affiliated with any person responsible for such pollution or
380 source of pollution through any direct or indirect familial relationship
381 or any contractual, corporate or financial relationship other than a
382 relationship by which such owner's interest in such property is to be
383 conveyed or financed; (5) such person or municipality is not otherwise
384 required by law, an order or consent order issued by the
385 Commissioner of Environmental Protection or a stipulated judgment
386 to remediate pollution on or emanating from such property; (6) the
387 person responsible for pollution on or emanating from the property is
388 indeterminable, is no longer in existence, is required by law to
389 remediate releases on and emanating from the property or is otherwise
390 unable to perform necessary remediation of such property; and (7) the
391 property and the person meet any other criteria said commissioner
392 deems necessary.

393 (c) For the purposes of this section, "municipality" means a
394 municipality, economic development agency or entity established
395 under chapter 130 or 132, nonprofit economic development
396 corporation formed to promote the common good, general welfare and
397 economic development of a municipality that is funded, either directly
398 or through in-kind services, in part by a municipality, or a nonstock
399 corporation or limited liability company controlled or established by a
400 municipality, municipal economic development agency or entity
401 created or operating under chapter 130 or 132.

402 (d) Notwithstanding the provisions of subsection (b) of this section,
403 a property owned by a municipality shall not be subject to subdivision
404 (6) of subsection (b) of this section.

405 (e) Notwithstanding the provisions of subsection (b) of this section,
406 a municipality may request the Commissioner of Economic and
407 Community Development to determine if a property is eligible
408 regardless of the person who currently owns such property.

409 [(b)] (f) Upon designation by the Commissioner of Economic and
410 Community Development of an eligible person [who] or municipality

411 that holds title to such property, such eligible person or municipality
412 shall (1) enter and remain in the voluntary remediation program
413 established in section 22a-133x, provided such person will not be a
414 certifying party for the property pursuant to section 22a-134, as
415 amended by this act, when acquiring such property; (2) investigate
416 pollution on such property in accordance with prevailing standards
417 and guidelines and remediate pollution on such property in
418 accordance with regulations established for remediation adopted by
419 the Commissioner of Environmental Protection and in accordance with
420 applicable schedules; and (3) eliminate further emanation or migration
421 of any pollution from such property. An eligible person who has been
422 accepted by the commissioner or who holds title to an eligible property
423 designated to be in the abandoned [brownfields] brownfield cleanup
424 program shall not be responsible for investigating or remediating any
425 pollution or source of pollution that has emanated from such property
426 prior to such person taking title to such property.

427 [(c)] (g) Any applicant seeking a designation of eligibility for a
428 person or a property under the abandoned brownfields cleanup
429 program shall apply to the Commissioner of Economic and
430 Community Development at such times and on such forms as the
431 commissioner may prescribe.

432 [(d)] (h) Not later than sixty days after receipt of the application, the
433 Commissioner of Economic and Community Development shall
434 determine if the application is complete and shall notify the applicant
435 of such determination.

436 [(e)] (i) Not later than ninety days after determining that the
437 application is complete, the Commissioner of Economic and
438 Community Development shall determine whether to include the
439 property and applicant in the abandoned brownfields cleanup
440 program.

441 [(f)] (j) Designation of a property in the abandoned [brownfields]
442 brownfield cleanup program by the Commissioner of Economic and
443 Community Development shall not limit the applicant's or any other

444 person's ability to seek funding for such property under any other
445 brownfield grant or loan program administered by the Department of
446 Economic and Community Development, the Connecticut
447 Development Authority or the Department of Environmental
448 Protection.

449 (k) Designation of a property in the abandoned brownfield cleanup
450 program by the Commissioner of Economic and Community
451 Development shall exempt such eligible person or eligible
452 municipality from filing as an establishment pursuant to sections 22a-
453 134a to 22a-134d, inclusive, as amended by this act, if such real
454 property or prior business operations constitute an establishment.

455 (l) Upon completion of the requirements of subsection (e) of this
456 section to the satisfaction of the Commissioner of Environmental
457 Protection, such person or municipality shall qualify for a covenant not
458 to sue from the Commissioner of Environmental Protection without
459 fee, pursuant to section 22a-133aa, as amended by this act.

460 (m) Any person or municipality designated as an eligible person
461 under the abandoned brownfield cleanup program shall be considered
462 an innocent party and shall not be liable to the Commissioner of
463 Environmental Protection or any person under section 22a-432, 22a-
464 433, 22a-451 or 22a-452 or other similar statute or common law for
465 conditions preexisting or existing on the brownfield property as of the
466 date of acquisition or control as long as the person or municipality (1)
467 did not establish, cause or contribute to the discharge, spillage,
468 uncontrolled loss, seepage or filtration of such hazardous substance,
469 material, waste or pollution; (2) does not exacerbate the conditions;
470 and (3) complies with reporting of significant environmental hazard
471 requirements in section 22a-6u. To the extent that any conditions are
472 exacerbated, the person or municipality shall only be responsible for
473 responding to contamination exacerbated by its negligent or reckless
474 activities.

475 Sec. 11. Subdivision (1) of section 22a-134 of the general statutes is
476 repealed and the following is substituted in lieu thereof (*Effective from*

477 *passage*):

478 (1) "Transfer of establishment" means any transaction or proceeding
479 through which an establishment undergoes a change in ownership, but
480 does not mean:

481 (A) Conveyance or extinguishment of an easement;

482 (B) Conveyance of an establishment through a foreclosure, as
483 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
484 tax lien or through a tax warrant sale pursuant to section 12-157, an
485 exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193
486 or by condemnation pursuant to section 32-224 or purchase pursuant
487 to a resolution by the legislative body of a municipality authorizing the
488 acquisition through eminent domain for establishments that also meet
489 the definition of a brownfield as defined in section 32-9kk or a
490 subsequent transfer by such municipality that has foreclosed on the
491 property, foreclosed municipal tax liens or that has acquired title to the
492 property through section 12-157, or is within the pilot program
493 established in subsection (c) of section 32-9cc, or has acquired such
494 property through the exercise of eminent domain pursuant to section
495 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224
496 or a resolution adopted in accordance with this subparagraph,
497 provided (i) the party acquiring the property from the municipality
498 did not establish, create or contribute to the contamination at the
499 establishment and is not affiliated with any person who established,
500 created or contributed to such contamination or with any person who
501 is or was an owner or certifying party for the establishment, and (ii) on
502 or before the date the party acquires the property from the
503 municipality, such party or municipality enters and subsequently
504 remains in the voluntary remediation program administered by the
505 commissioner pursuant to section 22a-133x and remains in compliance
506 with schedules and approvals issued by the commissioner. For
507 purposes of this subparagraph, subsequent transfer by a municipality
508 includes any transfer to, from or between a municipality, municipal
509 economic development agency or entity created or operating under

510 chapter 130 or 132, a nonprofit economic development corporation
511 formed to promote the common good, general welfare and economic
512 development of a municipality that is funded, either directly or
513 through in-kind services, in part by a municipality, or a nonstock
514 corporation or limited liability company controlled or established by a
515 municipality, municipal economic development agency or entity
516 created or operating under chapter 130 or 132;

517 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
518 defined in and that qualifies for the secured lender exemption
519 pursuant to subsection (b) of section 22a-452f;

520 (D) Conveyance of a security interest, as defined in subdivision (7)
521 of subsection (b) of section 22a-452f;

522 (E) Termination of a lease and conveyance, assignment or execution
523 of a lease for a period less than ninety-nine years including
524 conveyance, assignment or execution of a lease with options or similar
525 terms that will extend the period of the leasehold to ninety-nine years,
526 or from the commencement of the leasehold, ninety-nine years,
527 including conveyance, assignment or execution of a lease with options
528 or similar terms that will extend the period of the leasehold to ninety-
529 nine years, or from the commencement of the leasehold;

530 (F) Any change in ownership approved by the Probate Court;

531 (G) Devolution of title to a surviving joint tenant, or to a trustee,
532 executor or administrator under the terms of a testamentary trust or
533 will, or by intestate succession;

534 (H) Corporate reorganization not substantially affecting the
535 ownership of the establishment;

536 (I) The issuance of stock or other securities of an entity which owns
537 or operates an establishment;

538 (J) The transfer of stock, securities or other ownership interests
539 representing less than forty per cent of the ownership of the entity that

540 owns or operates the establishment;

541 (K) Any conveyance of an interest in an establishment where the
542 transferor is the sibling, spouse, child, parent, grandparent, child of a
543 sibling or sibling of a parent of the transferee;

544 (L) Conveyance of an interest in an establishment to a trustee of an
545 inter vivos trust created by the transferor solely for the benefit of one
546 or more siblings, spouses, children, parents, grandchildren, children of
547 a sibling or siblings of a parent of the transferor;

548 (M) Any conveyance of a portion of a parcel upon which portion no
549 establishment is or has been located and upon which there has not
550 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
551 of hazardous waste, provided either the area of such portion is not
552 greater than fifty per cent of the area of such parcel or written notice of
553 such proposed conveyance and an environmental condition
554 assessment form for such parcel is provided to the commissioner sixty
555 days prior to such conveyance;

556 (N) Conveyance of a service station, as defined in subdivision (5) of
557 this section;

558 (O) Any conveyance of an establishment which, prior to July 1, 1997,
559 had been developed solely for residential use and such use has not
560 changed;

561 (P) Any conveyance of an establishment to any entity created or
562 operating under chapter 130 or 132, or to an urban rehabilitation
563 agency, as defined in section 8-292, or to a municipality under section
564 32-224, or to the Connecticut Development Authority or any
565 subsidiary of the authority;

566 (Q) Any conveyance of a parcel in connection with the acquisition of
567 properties to effectuate the development of the overall project, as
568 defined in section 32-651;

569 (R) The conversion of a general or limited partnership to a limited

570 liability company under section 34-199;

571 (S) The transfer of general partnership property held in the names of
572 all of its general partners to a general partnership which includes as
573 general partners immediately after the transfer all of the same persons
574 as were general partners immediately prior to the transfer;

575 (T) The transfer of general partnership property held in the names
576 of all of its general partners to a limited liability company which
577 includes as members immediately after the transfer all of the same
578 persons as were general partners immediately prior to the transfer;

579 (U) Acquisition of an establishment by any governmental or quasi-
580 governmental condemning authority;

581 (V) Conveyance of any real property or business operation that
582 would qualify as an establishment solely as a result of (i) the
583 generation of more than one hundred kilograms of universal waste in
584 a calendar month, (ii) the storage, handling or transportation of
585 universal waste generated at a different location, or (iii) activities
586 undertaken at a universal waste transfer facility, provided any such
587 real property or business operation does not otherwise qualify as an
588 establishment; there has been no discharge, spillage, uncontrolled loss,
589 seepage or filtration of a universal waste or a constituent of universal
590 waste that is a hazardous substance at or from such real property or
591 business operation; and universal waste is not also recycled, treated,
592 except for treatment of a universal waste pursuant to 40 CFR
593 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
594 such real property or business operation; [or]

595 (W) Conveyance of a unit in a residential common interest
596 community in accordance with section 22a-134i;

597 (X) Acquisition of an establishment that is in the abandoned
598 brownfield cleanup program established pursuant to section 32-91l, as
599 amended by this act, and all subsequent transfers of the establishment,
600 provided the establishment is undergoing remediation or is

601 remediated in accordance with subsection (f) of said section 32-9ll; or

602 (Y) Any transfer of title from a bankruptcy court or a municipality
603 to a nonprofit organization.

604 Sec. 12. Section 22a-133aa of the general statutes is amended by
605 adding subsection (g) as follows (*Effective from passage*):

606 (NEW) (g) Any prospective purchaser or municipality remediating
607 property pursuant to the abandoned brownfield cleanup program
608 established pursuant to section 32-9ll, as amended by this act, shall
609 qualify for a covenant not to sue from the Commissioner of
610 Environmental Protection without fee. Such covenant not to sue shall
611 be transferable to subsequent owners provided the establishment is
612 undergoing remediation or is remediated in accordance with
613 subsection (f) of said section 32-9ll.

614 Sec. 13. Section 22a-133o of the general statutes is repealed and the
615 following is substituted in lieu thereof (*Effective from passage*):

616 (a) An owner of land may execute and record an environmental use
617 restriction under sections 22a-133n to 22a-133r, inclusive, on the land
618 records of the municipality in which such land is located if (1) the
619 commissioner has adopted standards for the remediation of
620 contaminated land pursuant to section 22a-133k, as amended by this
621 act, and adopted regulations pursuant to section 22a-133q, as amended
622 by this act, (2) the commissioner, or in the case of land for which
623 remedial action was supervised under section 22a-133y, a licensed
624 environmental professional, determines, as evidenced by his signature
625 on such restriction, that it is consistent with the purposes and
626 requirements of sections 22a-133n to 22a-133r, inclusive, as amended
627 by this act, and of such standards and regulations, and (3) such
628 restriction will effectively protect public health and the environment
629 from the hazards of pollution. An environmental use restriction may
630 be in the form of either an environmental land use restriction in
631 accordance with subsection (b) of this section or a notice of activity and
632 use limitation in accordance with subsection (c) of this section.

633 (b) (1) No owner of land may record an environmental land use
634 restriction on the land records of the municipality in which such land
635 is located unless he simultaneously records documents which
636 demonstrate that each person holding an interest in such land or any
637 part thereof, including without limitation each mortgagee, lessee,
638 lienor and encumbrancer, irrevocably subordinates such interest to the
639 environmental land use restriction provided the commissioner may
640 waive such requirement if he finds that the interest in such land is so
641 minor as to be unaffected by the environmental land use restriction.
642 An environmental land use restriction shall run with land, shall bind
643 the owner of the land and his successors and assigns, and shall be
644 enforceable notwithstanding lack of privity of estate or contract or
645 benefit to particular land.

646 [(c) Within] (2) Not later than seven days [of] after executing an
647 environmental land use restriction and receiving thereon the signature
648 of the commissioner or licensed environmental professional, as the
649 case may be, the owner of the land involved therein shall record such
650 restriction and documents required under [subsection (b) of this
651 section] subdivision (1) of this subsection on the land records of the
652 municipality in which such land is located and shall submit to the
653 commissioner a certificate of title certifying that each interest in such
654 land or any part thereof is irrevocably subordinated to the
655 environmental land use restriction in accordance with [said subsection
656 (b)] subdivision (1) of this subsection.

657 [(d)] (3) An owner of land with respect to which an environmental
658 land use restriction applies may be released, wholly or in part, from
659 the limitations of such restriction only with the commissioner's written
660 approval which shall be consistent with the regulations adopted
661 pursuant to section 22a-133q, as amended by this act, and shall be
662 recorded on the land records of the municipality in which such land is
663 located provided the commissioner may waive the requirement to
664 record such release if he finds that the activity which is the subject of
665 such release does not affect the overall purpose for which the
666 environmental land use restriction was implemented and does not

667 alter the size of the area subject to the environmental land use
668 restriction. The commissioner shall not approve any such release
669 unless the owner demonstrates that he has remediated the land, or
670 such portion thereof as would be affected by the release, in accordance
671 with the standards established pursuant to section 22a-133k, as
672 amended by this act.

673 [(e)] (4) An environmental land use restriction shall survive
674 foreclosure of a mortgage, lien or other encumbrance.

675 (c) (1) A notice of activity and use limitation may only be used and
676 recorded for releases remediated in accordance with the regulations
677 adopted pursuant to sections 22a-133k and 22a-133q, as amended by
678 this act, for the following purposes:

679 (A) To achieve compliance with industrial or commercial direct
680 exposure criteria, groundwater volatilization criteria, and soil vapor
681 criteria set forth in regulations adopted pursuant to section 22a-133k,
682 as amended by this act, by preventing residential activity and use of
683 the area affected by the notice of activity and use limitation, provided
684 the property is both zoned for industrial or commercial activity and
685 not currently used for any residential activity, as such activities are
686 defined to exclude residential activity in regulations adopted pursuant
687 to section 22a-133k, as amended by this act;

688 (B) To prevent disturbance of polluted soil that exceeds the
689 applicable direct exposure criteria but is inaccessible, in compliance
690 with the provisions of regulations adopted pursuant to section 22a-
691 133k, as amended by this act, provided pollutant concentrations in
692 such inaccessible soil do not exceed ten times the applicable direct
693 exposure criteria;

694 (C) To prevent disturbance of an engineered control to the extent
695 such engineered control is for the sole remedial purpose of eliminating
696 exposure to polluted soil that exceeds the direct exposure criteria,
697 provided pollutant concentrations in such soil do not exceed ten times
698 the applicable direct exposure criteria;

699 (D) To prevent demolition of a building or permanent structure that
700 renders polluted soil environmentally isolated, provided either: (i) The
701 pollutant concentrations in the environmentally isolated soil do not
702 exceed ten times the applicable direct exposure criteria and the
703 applicable pollutant mobility criteria, or (ii) the total volume of soil
704 that is environmentally isolated is less than or equal to ten cubic yards;
705 or

706 (E) Any other purpose the commissioner may prescribe by
707 regulation.

708 (2) No owner shall record a notice of activity and use limitation on
709 the land records of the municipality in which such land is located
710 unless the owner provides written notice to each person holding an
711 interest in such land or any part thereof, including, without limitation,
712 each mortgagee, lessee, lienor and encumbrancer, not later than sixty
713 days before the recording of such notice. Such notice of the proposed
714 notice of activity and use limitation shall be sent by certified mail,
715 return receipt requested, and shall include notice of the existence and
716 location of pollution within such area and the terms of such proposed
717 notice of activity and use limitation. Such sixty-day-notice period may
718 be waived upon the written agreement of all interest holders.

719 (3) A notice of activity and use limitation recorded pursuant to this
720 subsection shall be implemented and adhered to by the owner that
721 records such notice and the owner's successors, assigns, grantees or
722 transferees, including those persons receiving from the owner a
723 property interest or a license to use such property or conduct
724 remediation on any portion of such property.

725 (4) A notice of activity and use limitation shall be deemed
726 implemented and shall be in effect upon being duly recorded on the
727 land records of the municipality in which such property is located.

728 (5) (A) A notice of activity and use limitation shall be prepared on a
729 form as prescribed by the commissioner.

730 (B) A notice of activity and use limitation decision document, signed
731 by the commissioner or signed and sealed by a licensed environmental
732 professional, shall be referenced in and recorded with the notice of
733 activity and use limitation, and shall specify:

734 (i) Why the notice of activity and use limitation is appropriate to
735 achieve and maintain compliance with the regulations adopted
736 pursuant to section 22a-133k, as amended by this act;

737 (ii) Activities and uses that are inconsistent with maintaining
738 compliance with such regulations;

739 (iii) Activities and uses to be permitted;

740 (iv) Obligations and conditions necessary to meet the objectives of
741 the notice of activity and use limitation; and

742 (v) The nature and extent of pollution in the area that is the basis for
743 the notice of activity and use limitation, including a listing of
744 contaminants and concentrations for such contaminants, and the
745 horizontal and vertical extent of such contaminants.

746 (6) Upon transfer of any interest in or a right to use property, or a
747 portion of property, that is subject to a notice of activity and use
748 limitation, the owner of such land, any lessee of such land, and any
749 person who can subdivide or sublease the property, shall incorporate
750 such notice either in full or by reference into all future deeds,
751 easements, mortgages, leases, licenses, occupancy agreements or any
752 other instrument of transfer.

753 Sec. 14. Section 22a-133p of the general statutes is repealed and the
754 following is substituted in lieu thereof (*Effective from passage*):

755 (a) The Attorney General, at the request of the commissioner, shall
756 institute a civil action in the superior court for the judicial district of
757 Hartford or for the judicial district wherein the subject land is located
758 for injunctive or other equitable relief to enforce an environmental use
759 restriction or the provisions of sections 22a-134n to 22a-133q, inclusive,

760 as amended by this act, and regulations adopted thereunder or to
761 recover a civil penalty pursuant to subsection (e) of this section.

762 (b) The commissioner may issue orders pursuant to sections 22a-6,
763 as amended by this act, and 22a-7 to enforce an environmental use
764 restriction or the provisions of sections 22a-134n to 22a-133q, inclusive,
765 as amended by this act, and regulations adopted thereunder.

766 (c) In any administrative or civil proceeding instituted by the
767 commissioner to enforce an environmental use restriction or the
768 provisions of sections 22a-134n to 22a-133q, inclusive, as amended by
769 this act, and regulations adopted thereunder, any other person may
770 intervene as a matter of right.

771 (d) In any civil or administrative action to enforce an environmental
772 use restriction or the provisions of sections 22a-134n to 22a-133q,
773 inclusive, as amended by this act, and regulations adopted thereunder,
774 the owner of the subject land, and any lessee thereof, shall be strictly
775 liable for any violation of such restriction or the provisions of sections
776 22a-134n to 22a-133q, inclusive, as amended by this act, and
777 regulations adopted thereunder and shall be jointly and severally
778 liable for abating such violation.

779 (e) Any owner of land with respect to which an environmental use
780 restriction applies, and any lessee of such land, who violates any
781 provision of such restriction, fails to adhere to such restriction or
782 violates the provisions of sections 22a-134n to 22a-133q, inclusive, as
783 amended by this act, and regulations adopted thereunder shall be
784 assessed a civil penalty under section 22a-438. The penalty provided in
785 this subsection shall be in addition to any injunctive or other equitable
786 relief.

787 Sec. 15. Section 22a-133q of the general statutes is repealed and the
788 following is substituted in lieu thereof (*Effective from passage*):

789 The commissioner shall adopt regulations, in accordance with the
790 provisions of chapter 54, to carry out the purposes of sections 22a-133n

791 to 22a-133r, inclusive, as amended by this act. Such regulations may
792 include, but not be limited to, provisions regarding the form, contents,
793 fees, financial surety, monitoring and reporting, filing procedure for,
794 and release from, environmental use restrictions.

795 Sec. 16. Section 2 of public act 10-135 is repealed and the following is
796 substituted in lieu thereof (*Effective from passage*):

797 (a) There is established a working group to examine the remediation
798 and development of brownfields in this state, including, but not
799 limited to, the remediation scheme for such properties, permitting
800 issues and liability issues, including those set forth by sections 22a-14
801 to 22a-20, inclusive, of the general statutes.

802 (b) The working group shall consist of the following [eleven]
803 thirteen members, each of whom shall have expertise related to
804 brownfield redevelopment in environmental law, engineering, finance,
805 development, consulting, insurance or another relevant field:

806 (1) [Two] Four appointed by the Governor;

807 (2) One appointed by the president pro tempore of the Senate;

808 (3) One appointed by the speaker of the House of Representatives;

809 (4) One appointed by the majority leader of the Senate;

810 (5) One appointed by the majority leader of the House of
811 Representatives;

812 (6) One appointed by the minority leader of the Senate;

813 (7) One appointed by the minority leader of the House of
814 Representatives;

815 (8) The Commissioner of Economic and Community Development
816 or the commissioner's designee, who shall serve ex officio;

817 (9) The Commissioner of Environmental Protection or the

818 commissioner's designee, who shall serve ex officio; and

819 (10) The Secretary of the Office of Policy and Management or the
820 secretary's designee, who shall serve ex officio.

821 (c) [All] Any member of the working group as of the effective date
822 of this section shall continue to serve and all new appointments to the
823 working group shall be made no later than thirty days after the
824 effective date of this section. Any vacancy shall be filled by the
825 appointing authority.

826 (d) The [working group shall select] Commissioners of Economic
827 and Community Development and Environmental Protection shall
828 serve as chairpersons of the working group. [from among the
829 appointed members of the working group.] Such chairpersons shall
830 schedule the first meeting of the working group, which shall be held
831 no later than sixty days after the effective date of this section.

832 (e) On or before [January 15, 2011] February 15, 2012, the working
833 group shall report, in accordance with the provisions of section 11-4a
834 of the general statutes, on its findings and recommendations to the
835 joint standing committee of the General Assembly having cognizance
836 of matters relating to commerce.

837 Sec. 17. (NEW) (*Effective July 1, 2011*) (a) As used in this section:

838 (1) "Blight" means a pervasive condition in which property, whether
839 or not used for its intended purpose, is in a state of dilapidation or
840 decay, open to the elements, unable to provide shelter, or unable to
841 serve the purpose for which it was constructed due to damage,
842 dilapidation or decay.

843 (2) "Bona fide prospective purchaser" means a person that acquires
844 ownership of a property after January 1, 2012, and establishes by a
845 preponderance of the evidence that:

846 (A) All disposal of regulated substances at the property occurred
847 before the person acquired the property;

848 (B) Such person made all appropriate inquiries, as set forth in 40
849 CFR Part 312, into the previous ownership and uses of the property in
850 accordance with generally accepted good commercial and customary
851 standards and practices, including, but not limited to, the standards
852 and practices set forth in the ASTM Standard Practice for
853 Environmental Site Assessments, Phase I Environmental Site
854 Assessment Process, E1527-05. In the case of property in residential or
855 other similar use at the time of purchase by a nongovernmental or
856 noncommercial entity, a property inspection and title search that
857 reveal no basis for further investigation shall be considered to satisfy
858 the requirements of this subparagraph;

859 (C) Such person provides all legally required notices with respect to
860 the discovery or release of any regulated substances at the property;

861 (D) Such person exercises appropriate care with respect to regulated
862 substances found at the property by taking reasonable steps to (i) stop
863 any continuing release, (ii) prevent any threatened future release, and
864 (iii) prevent or limit human, environmental or natural resource
865 exposure to any previously released regulated substance;

866 (E) Such person provides full cooperation, assistance and access to
867 persons authorized to conduct response actions or natural resource
868 restoration at the property, including, but not limited to, the
869 cooperation and access necessary for the installation, integrity,
870 operation and maintenance of any complete or partial response actions
871 or natural resource restoration at the property;

872 (F) Such person complies with any land use restrictions established
873 or relied on in connection with the response action at the property and
874 does not impede the effectiveness or integrity of any institutional
875 control employed at the property in connection with a response action;
876 and

877 (G) Such person complies with any request for information from the
878 Commissioner of Environmental Protection.

879 (3) "Brownfield" has the same meaning as provided in section 32-
880 9kk of the general statutes, as amended by this act.

881 (4) "Brownfield investigation plan and remediation schedule" means
882 a plan and schedule for investigation and a schedule for remediation
883 of an eligible property under this section. Such investigation plan and
884 remediation schedule shall include both interim status or other
885 appropriate interim target dates and a date for project completion not
886 later than five years after a licensed environmental professional
887 submits such investigation plan and remediation schedule to the
888 Commissioner of Environmental Protection, provided the
889 Commissioner of Environmental Protection may extend such dates for
890 good cause. The plan shall provide a schedule for activities including,
891 but not limited to, completion of the investigation of the property in
892 accordance with prevailing standards and guidelines, submittal of a
893 complete investigation report, submittal of a detailed written plan for
894 remediation, completion of remediation in accordance with standards
895 adopted by said commissioner pursuant to section 22a-133k of the
896 general statutes, as amended by this act, and submittal to said
897 commissioner of a final remedial action report. Except as otherwise
898 provided in this section, in any detailed written plan for remediation
899 submitted under this section, the applicant shall only be required to
900 investigate and remediate conditions existing within the property
901 boundaries and shall not be required to investigate or remediate any
902 pollution or contamination that exists outside of the property's
903 boundaries, including any contamination that may exist or has
904 migrated to sediments, rivers, streams or off site.

905 (5) "Contiguous property owner" means a person who owns real
906 property contiguous to or otherwise similarly situated with respect to,
907 and that is or may be contaminated by a release or threatened release
908 of a regulated substance from, real property that is not owned by that
909 person, provided:

910 (A) With respect to the property owned by such person, such person
911 takes reasonable steps to (i) stop any continuing release of any

912 regulated substance released on or from the property, (ii) prevent any
913 threatened future release of any regulated substance released on or
914 from the property, and (iii) prevent or limit human, environmental or
915 natural resource exposure to any regulated substance released on or
916 from the property;

917 (B) Such person provides full cooperation, assistance and access to
918 persons authorized to conduct response actions or natural resource
919 restoration at the property from which there has been a release or
920 threatened release, including, but not limited to, the cooperation and
921 access necessary for the installation, integrity, operation and
922 maintenance of any complete or partial response action or natural
923 resource restoration at the property;

924 (C) Such person complies with any land use restrictions established
925 or relied on in connection with the response action at the property and
926 does not impede the effectiveness or integrity of any institutional
927 control employed in connection with a response action;

928 (D) Such person complies with any request for information from the
929 Commissioner of Environmental Protection; and

930 (E) Such person provides all legally required notices with respect to
931 the discovery or release of any hazardous substances at the property.

932 (6) "Director" means the Director of the Office of Brownfield
933 Remediation and Development.

934 (7) "Distressed municipality" has the same meaning as provided in
935 section 32-9p of the general statutes.

936 (8) "Economic development agency" means a municipality,
937 municipal economic development agency or entity created or
938 operating under chapter 130 or 132 of the general statutes, nonprofit
939 economic development corporation formed to promote the common
940 good, general welfare and economic development of a municipality
941 that is funded, either directly or through in-kind services, in part by a
942 municipality, or nonstock corporation or limited liability company

943 established or controlled by a municipality, municipal economic
944 development agency or entity created or operating under chapter 130
945 or 132 of the general statutes.

946 (9) "Innocent landowner" has the same meaning as provided in
947 section 22a-452d of the general statutes.

948 (10) "Interim verification" has the same meaning as provided in
949 section 22a-134 of the general statutes, as amended by this act.

950 (11) "Municipality" means any town, city or borough.

951 (12) "National priorities list" means the list of hazardous waste
952 disposal sites compiled by the United States Environmental Protection
953 Agency pursuant to 42 USC 9605.

954 (13) "Open space land" has the same meaning as provided in section
955 12-107b of the general statutes.

956 (14) "Person" means any individual, firm, partnership, association,
957 syndicate, company, trust, corporation, limited liability company,
958 municipality, economic development agency, agency or political or
959 administrative subdivision of the state and any other legal entity.

960 (15) "Principles of smart growth" means standards and objectives
961 that support and encourage smart growth when used to guide actions
962 and decisions, including, but not limited to, standards and criteria for
963 (A) integrated planning or investment that coordinates tax,
964 transportation, housing, environmental and economic development
965 policies at the state, regional and local level, (B) the reduction of
966 reliance on the property tax by municipalities by creating efficiencies
967 and coordination of services on the regional level while reducing
968 interlocal competition for grand list growth, (C) the redevelopment of
969 existing infrastructure and resources, including, but not limited to,
970 brownfields and historic places, (D) transportation choices that
971 provide alternatives to automobiles, including rail, public transit,
972 bikeways and walking, while reducing energy consumption, (E) the
973 development or preservation of housing affordable to households of

974 varying income in locations proximate to transportation or
975 employment centers or locations compatible with smart growth, (F)
976 concentrated, mixed-use, mixed income development proximate to
977 transit nodes and civic, employment or cultural centers, and (G) the
978 conservation and protection of natural resources by (i) preserving open
979 space, water resources, farmland, environmentally sensitive areas and
980 historic properties, and (ii) furthering energy efficiency.

981 (16) "Regulated substance" means any element, compound or
982 material that, when added to air, water, soil or sediment, may alter the
983 physical, chemical, biological or other characteristic of such air, water,
984 soil or sediment.

985 (17) "Release" means any discharge, spillage, uncontrolled loss,
986 seepage, filtration, leakage, injection, escape, dumping, pumping,
987 pouring, emitting, emptying or disposal of a substance.

988 (18) "Smart growth" means economic, social and environmental
989 development that (A) promotes, through financial and other
990 incentives, economic competitiveness in the state while preserving
991 natural resources, and (B) uses a collaborative approach to planning,
992 decision-making and evaluation between and among all levels of
993 government and the communities and the constituents they serve.

994 (19) "Transit-oriented development" has the same meaning as
995 provided in section 13b-79o of the general statutes.

996 (20) "Verification" has the same meaning as provided in section 22a-
997 134 of the general statutes, as amended by this act.

998 (b) The Office of Brownfield Remediation and Development shall
999 establish a comprehensive brownfield remediation and revitalization
1000 program to provide certain liability protections to program
1001 participants. Not more than twenty properties a year shall be accepted
1002 into the program and a new property shall be added upon the
1003 withdrawal of a property from the program or upon a notice of
1004 completion of remedy and no further action letter issued pursuant to

1005 this section. Participation in the program shall be by accepted
1006 application pursuant to subsection (c) of this section or by nomination
1007 pursuant to subsection (d) of this section and shall be based, at said
1008 office's discretion, on at least one of the following criteria: (1) The likely
1009 creation of jobs, including, but not limited to, those related to
1010 remediation, design, development and construction; (2) the projected
1011 increase to the municipal grand list; (3) the consistency of the property
1012 as remediated and developed with municipal or regional planning
1013 objectives; and (4) the development plan's support for and furtherance
1014 of principles of smart growth or transit-oriented development.

1015 (c) The office shall accept applications for participation in the
1016 program established pursuant to subsection (b) of this section from
1017 any innocent landowner, bona fide prospective purchaser,
1018 municipality, economic development agency or contiguous property
1019 owner purchasing a brownfield, provided such applicant (1) did not
1020 establish, create or maintain a source of pollution to the waters of the
1021 state for purposes of section 22a-432 of the general statutes and is not
1022 responsible pursuant to any other provision of the general statutes for
1023 any pollution or source of pollution on the property; and (2) is not
1024 affiliated with any person responsible for such pollution or source of
1025 pollution through any direct or indirect familial relationship or any
1026 contractual, corporate or financial relationship other than that by
1027 which such purchaser's interest in such property is to be conveyed or
1028 financed.

1029 (d) The office shall accept nominations for participation in the
1030 program established pursuant to subsection (b) of this section from a
1031 municipality or an economic development agency.

1032 (e) (1) Any eligible person making application must demonstrate to
1033 the director that: (A) The property meets the definition of a brownfield,
1034 and (B) there has been a release at the property of a regulated
1035 substance in an amount that exceeds the remediation standard
1036 regulations adopted by the Commissioner of Environmental Protection
1037 pursuant to section 22a-133k of the general statutes, as amended by

1038 this act.

1039 (2) A property that is currently the subject of an enforcement action,
1040 including any consent order issued by the Department of
1041 Environmental Protection or the United States Environmental
1042 Protection Agency under any current Department of Environmental
1043 Protection or United States Environmental Protection Agency program
1044 or that is listed on the national priorities list shall not be eligible to
1045 participate in the comprehensive brownfield remediation and
1046 revitalization program.

1047 (3) Properties otherwise eligible for the comprehensive brownfield
1048 remediation and revitalization program currently being investigated
1049 and remediated in accordance with the state voluntary remediation
1050 programs under sections 22a-133x and 22a-133y of the general statutes
1051 and the covenant not to sue programs under section 22a-133aa or 22a-
1052 133bb of the general statutes, as amended by this act, may participate
1053 in said program.

1054 (f) Inclusion of a property within the comprehensive brownfield
1055 remediation and revitalization program by the director shall not limit
1056 any person's ability to seek funding for such property under any
1057 federal, state or municipal grant or loan program, including, but not
1058 limited to, any state brownfield grant or loan program.

1059 (g) Any applicant seeking a designation of eligibility for a person or
1060 a property under the comprehensive brownfield remediation and
1061 revitalization program shall apply to the director at such times and on
1062 such forms as the director may prescribe and shall pay the Office of
1063 Brownfield Remediation and Development a fee of ten thousand
1064 dollars along with its completed application. Such fee shall be
1065 deposited into the Special Contaminated Property Remediation and
1066 Insurance Fund established under section 22a-133t of the general
1067 statutes and such funds shall be for the exclusive use by the
1068 Department of Environmental Protection to address imminent risk to
1069 public health or the environment associated with pollution that has
1070 migrated off of any property in the comprehensive brownfield

1071 remediation and revitalization program. No municipality or economic
1072 development agency seeking designation of eligibility shall be
1073 required to pay a fee, provided the municipality or economic
1074 development agency shall collect and pay the fee upon transfer of the
1075 property to another person for purposes of development. The
1076 application shall include a title search, the Phase I Environmental Site
1077 Assessment conducted by the bona fide prospective purchaser, which
1078 shall be prepared in accordance with the Department of
1079 Environmental Protection's Site Characterization Guidance Document,
1080 a property inspection and a completed environmental condition
1081 assessment form, as defined in subdivision (17) of section 22a-134 of
1082 the general statutes, for the eligible property and documentation
1083 demonstrating satisfaction of the eligibility criteria set forth in
1084 subsection (b) of this section and such other information as the director
1085 may request to determine eligibility. The applicant shall certify to the
1086 director, in writing, that the information contained in its application is
1087 correct and accurate to the best of the applicant's knowledge and
1088 belief.

1089 (h) Not later than thirty days after receipt of the application, the
1090 director shall notify the applicant whether the application is complete
1091 or incomplete. If the director fails to notify the applicant within thirty
1092 days after his or her receipt of an application, the application shall be
1093 deemed complete.

1094 (i) (1) Not later than sixty days after the application is determined or
1095 deemed to be complete, the director shall notify the applicant whether
1096 the eligible property is included or not included in the comprehensive
1097 brownfield remediation and revitalization program. If the director fails
1098 to notify the applicant within sixty days, the application shall be
1099 deemed accepted into the comprehensive brownfield remediation and
1100 revitalization program.

1101 (2) A person whose application has been accepted or deemed
1102 accepted into the comprehensive brownfield remediation and
1103 revitalization program shall not be liable to the state or any third party

1104 for the release of any regulated substance at or from the eligible
1105 property except and only to the extent that such applicant (A) caused
1106 or contributed to the release of a regulated substance that is subject to
1107 remediation or exacerbated such condition, or (B) the Commissioner of
1108 Environmental Protection determines the existence of any of the
1109 conditions set forth in subparagraph (C) of subdivision (2) of
1110 subsection (m) of this section.

1111 (j) (1) A person whose application to the comprehensive brownfield
1112 remediation and revitalization program has been approved or deemed
1113 approved by the director (A) shall investigate the release or threatened
1114 release of any regulated substance within the boundaries of the
1115 property in accordance with prevailing standards and guidelines and
1116 remediate such release or threatened release within the boundaries of
1117 such property in accordance with the brownfield investigation plan
1118 and remediation schedule, and (B) shall not be required to
1119 characterize, abate and remediate the release of a regulated substance
1120 beyond the boundary of the eligible property, except for releases
1121 caused or contributed to by such person.

1122 (2) Not later than one hundred eighty days after the application is
1123 determined to be or is deemed complete, or such longer period as may
1124 be approved by the Commissioner of Environmental Protection upon
1125 good cause shown, the applicant shall submit to said commissioner
1126 and the director a brownfield investigation plan and remediation
1127 schedule that is signed and stamped by a licensed environmental
1128 professional. Unless otherwise approved in writing by the
1129 Commissioner of Environmental Protection, the brownfield
1130 investigation plan and remediation schedule shall provide that not
1131 later than eight years after the date the application is approved, the
1132 eligible party shall achieve the investigation and remediate the
1133 property sufficient to support a final or interim verification. The
1134 eligible party may request a verification or interim verification
1135 extension, which the Commissioner of Environmental Protection shall
1136 grant upon certification by the eligible party that (A) such eligible
1137 party has made reasonable progress toward investigation and

1138 remediation of the property, and (B) despite best efforts, circumstances
1139 beyond the control of the eligible party have significantly delayed the
1140 remediation of the establishment. The applicant shall publish notice of
1141 such plan and schedule in a newspaper of general circulation within
1142 the area of the property in accordance with this section, stating that
1143 such plan and schedule is available for review. Any person may
1144 provide comments to the applicant on such plan and schedule not later
1145 than thirty days after the publishing of such notice and provide a copy
1146 to such commissioner and the director.

1147 (3) Not later than sixty days after providing public notice of such
1148 plan and schedule, the applicant shall submit to the commissioner and
1149 the director a response to any public comments. Not later than sixty
1150 days after receiving the applicant's response to public comments, the
1151 Commissioner of Environmental Protection shall notify the applicant
1152 and the director as to whether such plan and schedule is approved in
1153 full or in part or rejected in full or in part, with an explanation of the
1154 reasons for the decision. If said commissioner neither approves nor
1155 rejects such plan and schedule within such time frame, such plan and
1156 schedule shall be deemed approved. The applicant shall have thirty
1157 days to respond to any disapproval or rejection by said commissioner
1158 and the time frames set forth in this section for comment and response
1159 shall continue until said commissioner approves such plan and
1160 schedule, such plan and schedule is deemed approved or the applicant
1161 has notified said commissioner of its withdrawal from the program's
1162 application process.

1163 (4) Before commencement of remedial action pursuant to the
1164 approved plan and schedule, the applicant shall: (A) Publish notice of
1165 the remedial action in a newspaper having a substantial circulation in
1166 the town where the property is located, (B) notify the director of health
1167 of the municipality where the property is located, and (C) either (i)
1168 erect and maintain for at least thirty days in a legible condition a sign
1169 not less than six feet by four feet on the property, which shall be clearly
1170 visible from the public highway and shall include the words
1171 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR

1172 FURTHER INFORMATION CONTACT:" and include a telephone
1173 number for an office from which any interested person may obtain
1174 additional information about the remedial action, or (ii) mail notice of
1175 the remedial action to each owner of record of property which abuts
1176 such property, at the address on the last-completed grand list of the
1177 relevant town.

1178 (5) The remedial action shall be conducted under the supervision of
1179 a licensed environmental professional and the final remedial action
1180 report shall be submitted to the director signed and stamped by a
1181 licensed environmental professional. In such report, the licensed
1182 environmental professional shall include a detailed description of the
1183 remedial actions taken and issue a verification or interim verification,
1184 in which he or she shall render an opinion, in accordance with the
1185 standard of care provided in subsection (c) of section 22a-133w of the
1186 general statutes, that the action taken to contain, remove or mitigate
1187 the release of regulated substances within the boundaries of such
1188 property is in accordance with the remediation standards adopted by
1189 the commissioner pursuant to section 22a-133k of the general statutes,
1190 as amended by this act.

1191 (6) All applications for permits required to implement such plan
1192 and schedule in this section shall be submitted to the permit
1193 ombudsman within the Department of Economic and Community
1194 Development.

1195 (7) Each applicant participating in the comprehensive brownfield
1196 remediation and revitalization program shall maintain all records
1197 related to its implementation of such plan and schedule and
1198 completion of the remedial action of the property for a period of not
1199 less than ten years and shall make such records available to the
1200 commissioner or the director at any time upon request by either.

1201 (8) (A) Any final remedial action report submitted by a licensed
1202 environmental professional to said commissioner and the director for
1203 the property shall be deemed approved unless, not later than ninety
1204 days after such submittal, said commissioner determines, in his or her

1205 sole discretion, and provides notice of such determination to the
1206 applicant and the director, that an audit of such remedial action is
1207 necessary to assess whether remedial action beyond that which is
1208 detailed in such report is necessary for the protection of human health
1209 or the environment. Such an audit shall be conducted not later than six
1210 months after such determination. Within fourteen days of completion
1211 of an audit, said commissioner shall send written audit findings to the
1212 applicant, the director and the licensed environmental professional.
1213 The audit findings may approve or disapprove the report, provided
1214 any disapproval shall set forth the reasons for such disapproval.

1215 (B) The commissioner may request additional information during an
1216 audit. If such information has not been provided to the commissioner
1217 within fourteen days of such request, the time frame for the
1218 commissioner to complete the audit shall be suspended until the
1219 information is provided to the commissioner.

1220 (C) The commissioner shall not conduct an audit of a final
1221 verification after ninety days from receipt of such verification unless (i)
1222 the commissioner has reason to believe that a verification was obtained
1223 through the submittal of materially inaccurate or erroneous
1224 information, or otherwise misleading information material to the
1225 verification or that material misrepresentations were made in
1226 connection with the submittal of the verification, (ii) post-verification
1227 monitoring or operations and maintenance is required as part of a
1228 verification and has not been done, (iii) a verification that relies upon
1229 an environmental land use restriction was not recorded on the land
1230 records of the municipality in which such land is located in accordance
1231 with section 22a-133o of the general statutes, as amended by this act, of
1232 the general statutes and applicable regulations, (iv) the commissioner
1233 determines that there has been a violation of law material to the
1234 verification, or (v) the commissioner determines that information exists
1235 indicating that the remediation may have failed to prevent a
1236 substantial threat to public health or the environment for releases on
1237 the property.

1238 (k) Not later than sixty days after receiving a notice of disapproval
1239 of remedial action report from the Commissioner of Environmental
1240 Protection, the applicant may submit to said commissioner and to the
1241 director a report of cure of noted deficiencies. Within sixty days after
1242 receiving such report of cure of noted deficiencies by said
1243 commissioner, said commissioner may provide a written disapproval
1244 of such report of cure of noted deficiencies. If said commissioner does
1245 not provide a written disapproval of the report, the report will be
1246 deemed approved and said commissioner shall issue a notice of
1247 completion of remedy and no further action letter.

1248 (l) Before approving a final remedial action report or the remedial
1249 action report being deemed approved, the Commissioner of
1250 Environmental Protection may enter into a memorandum of
1251 understanding with the applicant with regard to any further remedial
1252 action or monitoring activities on or at such property that said
1253 commissioner deems necessary for the protection of human health or
1254 the environment.

1255 (m) (1) An applicant who has been accepted into the comprehensive
1256 brownfield remediation and revitalization program shall have no
1257 obligation as part of its plan and schedule to characterize, abate and
1258 remediate any plume of a regulated substance outside the boundaries
1259 of the subject property, provided the notification requirements of
1260 section 22a-6u of the general statutes pertaining to significant
1261 environmental hazards shall continue to apply to the property and the
1262 applicant shall not be required to characterize, abate or remediate any
1263 such significant environmental hazard outside the boundaries of the
1264 subject property unless such significant environmental hazard arises
1265 from the actions of the applicant after its acquisition of or control over
1266 the property from which such significant environmental hazard has
1267 emanated outside its own boundaries. If an applicant who has been
1268 accepted into the comprehensive brownfield remediation and
1269 revitalization program conveys or otherwise transfers its ownership of
1270 the subject property, the provisions of this section shall apply to such
1271 transferee, if such transferee meets the eligibility criteria set forth in

1272 this section and such transferee complies with all the obligations
1273 undertaken by the applicant under this section.

1274 (2) (A) With the Commissioner of Environmental Protection's
1275 approval of a final remedial action report or upon the deemed
1276 approval of such report, said commissioner shall issue a notice of
1277 completion of remedy and no further action letter that shall provide
1278 that the applicant is not liable to the state or any third party for (i) costs
1279 incurred in the remediation of, equitable relief relating to, or damages
1280 resulting from the release of regulated substances addressed in the
1281 brownfield investigation plan and remediation schedule, and (ii)
1282 historical off-site impacts including air deposition, waste disposal,
1283 impacts to sediments and natural resource damages. The notice of
1284 completion of remedy and no further action letter shall not afford any
1285 relief from liability such applicant may have under the corrective
1286 action program of the Resource Conservation and Recovery Act, 42
1287 USC 6901 et seq., sections 22a-449(d)-1 and 22a-449(d)-101 to 113 of the
1288 regulations of Connecticut state agencies and any requirements
1289 imposed pursuant to the state's superfund requirements.

1290 (B) The notice of completion of remedy and no further action letter
1291 issued by the Commissioner of Environmental Protection shall extend
1292 to any person who acquires title to all or part of the property for which
1293 a remedial action report has been approved pursuant to this subsection
1294 provided (i) there is payment of a fee of five thousand dollars to said
1295 commissioner for each such extension, and (ii) such person acquiring
1296 all or part of the property meets the criteria of this section. No
1297 municipality or economic development agency that acquires title to all
1298 or part of the property shall be required to pay a fee, provided the
1299 municipality or economic development agency shall collect and pay
1300 the fee upon transfer of the property to another person for purposes of
1301 development. Such fee shall be deposited into the Special
1302 Contaminated Property Remediation and Insurance Fund established
1303 under section 22a-133t of the general statutes, and such funds shall be
1304 for the exclusive use by the Department of Environmental Protection
1305 to address imminent risk to public health or the environment

1306 associated with pollution that has migrated off of any property in the
1307 comprehensive brownfield remediation and revitalization program.

1308 (C) A notice of completion of remedy and no further action letter
1309 issued pursuant to this section shall not preclude the Commissioner of
1310 Environmental Protection from taking any appropriate action,
1311 including, but not limited to, any action to require remediation of the
1312 property by the applicant or, as applicable, to its successor, if said
1313 commissioner determines that:

1314 (i) The notice of completion of remedy and no further action letter
1315 was based on information provided by the person seeking such letter,
1316 and the Commissioner of Environmental Protection can show that
1317 such person knew, or had reason to know, was false or misleading,
1318 and, in the case of the successor to an applicant, that such successor
1319 was aware or had reason to know that such information was false or
1320 misleading;

1321 (ii) New information confirms the existence of previously unknown
1322 contamination that resulted from a release that occurred before the
1323 date that an application has been accepted or deemed accepted into the
1324 comprehensive brownfield remediation and revitalization program;

1325 (iii) The applicant who received the notice of completion of remedy
1326 and no further action letter has materially failed to complete the
1327 remedial action required by the brownfield investigation plan and
1328 remediation schedule or to carry out or comply with monitoring,
1329 maintenance or operating requirements pertinent to a remedial action
1330 including the requirements of any environmental land use restriction;
1331 or

1332 (iv) The threat to human health or the environment is increased
1333 beyond an acceptable level due to substantial changes in exposure
1334 conditions at such property, including, but not limited to, a change
1335 from nonresidential to residential use of such property.

1336 (3) If an applicant who has been accepted into the comprehensive

1337 brownfield remediation and revitalization program conveys or
1338 otherwise transfers all or part of its ownership interest in the subject
1339 property at any time before the issuance of a notice of completion of
1340 remedy and no further action letter pursuant to subdivision (2) of this
1341 subsection, the applicant conveying or otherwise transferring its
1342 ownership interest shall not be liable to the state or any third party for
1343 (A) costs incurred in the remediation of, equitable relief relating to, or
1344 damages resulting from the release of regulated substances addressed
1345 in the brownfield investigation plan and remediation schedule, and (B)
1346 historical off-site impacts including air deposition, waste disposal,
1347 impacts to sediments and natural resource damages, provided the
1348 applicant complied with its obligations under this section during the
1349 period when the applicant held an ownership interest in the subject
1350 property. Nothing in this subsection shall provide any relief from
1351 liability such applicant may have under the corrective action program
1352 of the Resource Conservation and Recovery Act, 42 USC 6901 et seq.,
1353 sections 22a-449(d)-1 and sections 22a-449(d)-101 to 113 of the
1354 regulations of Connecticut state agencies and any requirements
1355 imposed pursuant to the state superfund requirements.

1356 (n) On and after the effective date of this section, no eligible person
1357 accepted into the program shall be required to comply with the
1358 provisions of sections 22a-134 to 22a-134e, inclusive, of the general
1359 statutes, as amended by this act, in connection with the transfer of a
1360 business or real property at which no activities described in
1361 subdivision (3) of section 22a-134 of the general statutes, have been
1362 conducted since the date of such approval and for which (1) an
1363 application has been accepted or deemed accepted into the
1364 comprehensive brownfield remediation and revitalization program, or
1365 (2) a brownfield investigation plan and remediation schedule or a final
1366 remedial action report hereunder has been approved or deemed
1367 approved by the Commissioner of Environmental Protection.

1368 (o) The director may adopt regulations in accordance with the
1369 provisions of chapter 54 of the general statutes to implement the
1370 program established pursuant to this section.

1371 Sec. 18. Section 32-23zz of the general statutes is repealed and the
1372 following is substituted in lieu thereof (*Effective July 1, 2011*):

1373 (a) For the purpose of assisting (1) any information technology
1374 project, as defined in subsection (ee) of section 32-23d, which is located
1375 in an eligible municipality, as defined in subdivision (12) of subsection
1376 (a) of section 32-9t, or (2) any remediation project, as defined in
1377 subsection (ii) of section 32-23d, the Connecticut Development
1378 Authority may, upon a resolution of the legislative body of a
1379 municipality, issue and administer bonds which are payable solely or
1380 in part from and secured by: (A) A pledge of and lien upon any and all
1381 of the income, proceeds, revenues and property of such a project,
1382 including the proceeds of grants, loans, advances or contributions from
1383 the federal government, the state or any other source, including
1384 financial assistance furnished by the municipality or any other public
1385 body, (B) taxes or payments or grants in lieu of taxes allocated to and
1386 payable into a special fund of the Connecticut Development Authority
1387 pursuant to the provisions of subsection (b) of this section, or (C) any
1388 combination of the foregoing. Any such bonds of the Connecticut
1389 Development Authority shall mature at such time or times not
1390 exceeding thirty years from their date of issuance and shall be subject
1391 to the general terms and provisions of law applicable to the issuance of
1392 bonds by the Connecticut Development Authority, except that such
1393 bonds shall be issued without a special capital reserve fund as
1394 provided in subsection (b) of section 32-23j and, for purposes of section
1395 32-23f, only the approval of the board of directors of the authority shall
1396 be required for the issuance and sale of such bonds. Any pledge made
1397 by the municipality or the Connecticut Development Authority for
1398 bonds issued as provided in this section shall be valid and binding
1399 from the time when the pledge is made, and revenues and other
1400 receipts, funds or moneys so pledged and thereafter received by the
1401 municipality or the Connecticut Development Authority shall be
1402 subject to the lien of such pledge without any physical delivery thereof
1403 or further act. The lien of such pledge shall be valid and binding
1404 against all parties having claims of any kind in tort, contract or
1405 otherwise against the municipality or the Connecticut Development

1406 Authority, even if the parties have no notice of such lien. Recording of
1407 the resolution or any other instrument by which such a pledge is
1408 created shall not be required. In connection with any such assignment
1409 of taxes or payments in lieu of taxes, the Connecticut Development
1410 Authority may, if the resolution so provides, exercise the rights
1411 provided for in section 12-195h of an assignee for consideration of any
1412 lien filed to secure the payment of such taxes or payments in lieu of
1413 taxes. All expenses incurred in providing such assistance may be
1414 treated as project costs.

1415 (b) Any proceedings authorizing the issuance of bonds under this
1416 section may contain a provision that taxes or a specified portion
1417 thereof, if any, identified in such authorizing proceedings and levied
1418 upon taxable real or personal property, or both, in a project each year,
1419 or payments or grants in lieu of such taxes or a specified portion
1420 thereof, by or for the benefit of any one or more municipalities,
1421 districts or other public taxing agencies, as the case may be, shall be
1422 divided as follows: (1) In each fiscal year that portion of the taxes or
1423 payments or grants in lieu of taxes which would be produced by
1424 applying the then current tax rate of each of the taxing agencies to the
1425 total sum of the assessed value of the taxable property in the project on
1426 the date of such authorizing proceedings, adjusted in the case of grants
1427 in lieu of taxes to reflect the applicable statutory rate of
1428 reimbursement, shall be allocated to and when collected shall be paid
1429 into the funds of the respective taxing agencies in the same manner as
1430 taxes by or for said taxing agencies on all other property are paid; and
1431 (2) that portion of the assessed taxes or the payments or grants in lieu
1432 of taxes, or both, each fiscal year in excess of the amount referred to in
1433 subdivision (1) of this subsection shall be allocated to and when
1434 collected shall be paid into a special fund of the Connecticut
1435 Development Authority to be used in each fiscal year, in the discretion
1436 of the Connecticut Development Authority, to pay the principal of and
1437 interest due in such fiscal year on bonds issued by the Connecticut
1438 Development Authority to finance, refinance or otherwise assist such
1439 project, to purchase bonds issued for such project, or to reimburse the
1440 provider of or reimbursement party with respect to any guarantee,

1441 letter of credit, policy of bond insurance, funds deposited in a debt
1442 service reserve fund, funds deposited as capitalized interest or other
1443 credit enhancement device used to secure payment of debt service on
1444 any bonds issued by the Connecticut Development Authority to
1445 finance, refinance or otherwise assist such project, to the extent of any
1446 payments of debt service made therefrom. Unless and until the total
1447 assessed valuation of the taxable property in a project exceeds the total
1448 assessed value of the taxable property in such project as shown by the
1449 last assessment list referred to in subdivision (1) of this subsection, all
1450 of the taxes levied and collected and all of the payments or grants in
1451 lieu of taxes due and collected upon the taxable property in such
1452 project shall be paid into the funds of the respective taxing agencies.
1453 When such bonds and interest thereof, and such debt service
1454 reimbursement to the provider of or reimbursement party with respect
1455 to such credit enhancement, have been paid in full, all moneys
1456 thereafter received from taxes or payments or grants in lieu of taxes
1457 upon the taxable property in such development project shall be paid
1458 into the funds of the respective taxing agencies in the same manner as
1459 taxes on all other property are paid. The total amount of bonds issued
1460 pursuant to this section which are payable from grants in lieu of taxes
1461 payable by the state shall not exceed an amount of bonds, the debt
1462 service on which in any state fiscal year is, in total, equal to one million
1463 dollars.

1464 (c) The authority may make grants or provide loans or other forms
1465 of financial assistance from the proceeds of special or general
1466 obligation notes or bonds of the authority issued without the security
1467 of a special capital reserve fund within the meaning of subsection (b)
1468 of section 32-23j, which bonds are payable from and secured by, in
1469 whole or in part, the pledge and security provided for in section 8-134,
1470 8-192, 32-227 or this section, all on such terms and conditions,
1471 including such agreements with the municipality and the developer of
1472 the project, as the authority determines to be appropriate in the
1473 circumstances, provided any such project in an area designated as an
1474 enterprise zone pursuant to section 32-70 receiving such financial
1475 assistance shall be ineligible for any fixed assessment pursuant to

1476 section 32-71, and the authority, as a condition of such grant, loan or
1477 other financial assistance, may require the waiver, in whole or in part,
1478 of any property tax exemption with respect to such project otherwise
1479 available under subsection (59) or (60) of section 12-81.

1480 (d) As used in this section, "bonds" means any bonds, including
1481 refunding bonds, notes, temporary notes, interim certificates,
1482 debentures or other obligations; "legislative body" has the meaning
1483 provided in subsection (w) of section 32-222; and "municipality" means
1484 a town, city, consolidated town or city or consolidated town and
1485 borough.

1486 (e) For purposes of this section, references to the Connecticut
1487 Development Authority shall include any subsidiary of the
1488 Connecticut Development Authority established pursuant to
1489 subsection (l) of section 32-11a, and a municipality may act by and
1490 through its implementing agency, as defined in subsection (k) of
1491 section 32-222.

1492 [(f) No commitments for new projects shall be approved by the
1493 authority under this section on or after July 1, 2012.]

1494 [(g)] (f) In the case of a remediation project, as defined in subsection
1495 (ii) of section 32-23d, that involves buildings that are vacant,
1496 underutilized or in deteriorating condition and as to which municipal
1497 real property taxes are delinquent, in whole or in part, for more than
1498 one fiscal year, the amount determined in accordance with subdivision
1499 (1) of subsection (b) of this section may, if the resolution of the
1500 municipality so provides, be established at an amount less than the
1501 amount so determined, but not less than the amount of municipal
1502 property taxes actually paid during the most recently completed fiscal
1503 year. If the Connecticut Development Authority issues bonds for the
1504 remediation project, the amount established in the resolution shall be
1505 used for all purposes of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	32-9cc
Sec. 2	<i>July 1, 2011</i>	32-9ee
Sec. 3	<i>July 1, 2011</i>	32-9ff
Sec. 4	<i>from passage</i>	22a-134a
Sec. 5	<i>from passage</i>	22a-133k
Sec. 6	<i>from passage</i>	22a-426
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>July 1, 2011</i>	32-9kk(a)(1)
Sec. 9	<i>from passage</i>	22a-6
Sec. 10	<i>July 1, 2011</i>	32-9ll
Sec. 11	<i>from passage</i>	22a-134(1)
Sec. 12	<i>from passage</i>	22a-133aa
Sec. 13	<i>from passage</i>	22a-133o
Sec. 14	<i>from passage</i>	22a-133p
Sec. 15	<i>from passage</i>	22a-133q
Sec. 16	<i>from passage</i>	PA 10-135, Sec. 2
Sec. 17	<i>July 1, 2011</i>	New section
Sec. 18	<i>July 1, 2011</i>	32-23zz

Statement of Legislative Commissioners:

In section 1(g), in the definition of "brownfields", "or reuse of the property" was changed to "or reuse or expansion of the property" for internal consistency; in section 5, "In accordance with the provisions of chapter 54" was deleted for statutory consistency; in section 6(e), references to section 6(f) were replaced with the language from section 6(f) for clarity; in section 10(b)(2), 10(b)(4) and 10(b)(5), "such person" was changed to "such person or municipality" for internal consistency; in section 10(f), two references to "eligible person" were changed to "eligible person or municipality" for internal consistency; in section 17(b) "shall establish a brownfield remediation" was changed to "shall establish a comprehensive brownfield" for internal consistency; in section 17(c), "purchasing a brownfield who (1)" was changed to "purchasing a brownfield, provided such applicant (1)" for clarity; section 17(e) became section 17(o) and the remaining subsections were relettered for conformity with drafting standards; and in section 17(m), subdivision (2) was relettered with subparagraphs (A), (B) and (C) for clarity.

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Various State Agencies	Various - Savings	Potential Significant	Potential Significant
Department of Environmental Protection	GF - Revenue Gain	Up to 200,000	Up to 200,000
Department of Economic & Community Development	GF - Cost	140,000	140,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	33,236	33,236
Legislative Mgmt.	GF - Potential Cost	Less than 1,000	Less than 1,000
Department of Revenue Services	GF - Potential Revenue Gain	See Below	See Below
Department of Environmental Protection	GF - Revenue Loss	Indeterminate	Indeterminate

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Various Municipalities	Potential Savings	Significant	Significant

Explanation

The bill results in a cost and revenue loss to the state by making various changes to the laws and programs governing brownfield remediation projects.

Section 1 requires the Department of Economic and Community

¹ The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

Development (DECD) to appoint a director of the Office of Brownfield and Remediation Development (OBRD). This results in a cost of \$109,527 (\$88,500 salary and \$21,027 in fringe benefits).

Section 9 exempts entities and state agencies from remitting various fees to the Department of Environmental Protection (DEP). This will result in a revenue loss to DEP, the extent of which is unknown at this time. The bill could also result in a savings to state agencies that remediate state-owned properties that do not have to remit form application fees under the bill's provisions.

Fees for: (1) an environmental condition assessment form is \$3,250; and (2) the fee for a covenant not to sue prospective purchasers or owners of contaminated land form is 3% of the appraised value of the property as if it were uncontaminated. Transfer fees are as follows: (1) filing a Form I is \$75; (2) filing a Form II is \$1,320; (3) filing an initial Form III on or after October 1, 1995 is \$3,000 with subsequent Form III fees ranging from \$3,250 to \$34,750 depending on the additional amount of remediation required; (4) filing a Form IV ranges from \$3,250 to \$17,500 dependant upon the amount of remediation required.

Sections 10 & 12 also consider a municipality as an innocent party regarding preexisting contamination conditions only to the extent that it was not negligent or reckless. It also states that municipalities qualify for a covenant not to sue without fee from DEP. Thus, it could result in significant savings to municipalities for litigation and any resulting liability. Municipalities could realize a savings from exemption of remitting certain fees (the amount of which is noted above).

Section 16 increases, from 11 to 13, the membership on the working group established in PA 10-135. This may result in an additional cost to the Office of Legislative Management or other state agencies of up to \$1,000 in both FY 12 and FY 13 to the extent that these two new task force members seek mileage reimbursement. The current rate of mileage reimbursement is 51 cents per mile.

Section 17 establishes a new liability protection program under the OBRD. The Department of Economic and Community Development requires one Environmental Analyst position at a total cost of \$63,736 (\$51,500 salary and \$12,236 in fringe benefits) to administer this program.

The bill also results in a revenue gain to DEP of up to \$200,000 in both FY 12 and FY 13 since it establishes a new liability protection program within the OBRD. The program may accept up to 20 properties per year with a \$10,000 fee per property. This provision may also result in additional revenue in subsequent years since it requires a \$5,000 fee upon transfer of the property. Municipalities are exempt from remittance of this fee.

Section 18 eliminates the sunset date for the Connecticut Development Authority's (CDA) tax incremental financing (TIF) program. To the extent that this extension of the program enhances the ability of large scale projects to be financed, there is a potential for grand list expansion in those municipalities.

This could also result in an increase in state revenue collections if it produces economic development that leads to an increase in the state's tax base.

Expanding the TIF programs may result in costs to CDA, a quasi-state agency, if towns submit applications for TIF projects that do not subsequently receive funding. Under the program, towns are required to reimburse the agency for expenses associated with the statutory evaluation process, including a financial assessment, a revenue impact assessment and legal fees. However if for any reason the project does not receive TIF funding, the agency's costs are not reimbursed.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6526*****AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT AS AN ECONOMIC DRIVER.*****SUMMARY:**

This bill makes many changes to the laws and programs governing how parties may clean up and redevelop contaminated property (i.e., brownfields). Parties undertaking such projects may be liable for contamination that existed before they acquired the property. The bill provides more protection from that liability. It:

1. requires the Office of Brownfield Remediation and Development (OBRD) to establish a program protecting property owners from liability to the state and third parties if they remediate a brownfield according to Department of Environmental Protection (DEP) standards;
2. explicitly limits the party (known as the certifying party) responsible under the Transfer Act to investigating and remediating only the contamination that existed on the property before it was transferred or the required DEP forms were filed, whichever is later; and
3. allows more property to qualify for liability protection under a Department of Economic and Community Development (DECD) program and opens it to municipalities and specific types of developers acting on their behalf.

The bill also makes changes to the regulatory requirements for remediating brownfields. It:

1. exempts parties from paying various DEP fees when remediating these sites with state funds,

2. gives developers another device for imposing use restrictions on remediated property (i.e., Notice of Activity and Use Limitation), and
3. creates a framework for reviewing and revising remediation standards and surface and ground water classifications and evaluating policies and programs affecting the property owners' ability to clean up and redevelop brownfields.

The bill makes permanent two brownfield funding programs; makes structural changes to OBRD; and extends the Brownfield Working Group's term, increases its membership, and makes the DECD and DEP commissioners its co-chairpersons.

EFFECTIVE DATE: Upon passage, except for the provisions concerning OBRD's structure, the new liability protection program, the existing brownfield funding programs, and the fee exemptions, which take effect July 1, 2011.

§ 17 — NEW LIABILITY PROTECTION PROGRAM

Purpose

The bill requires OBRD to establish a program protecting owners from liability when remediating and developing brownfields. OBRD may accept up to 20 properties per year, but must add more during a year if a property drops out of the program or its owner finishes remediating it. OBRD is a unit of DECD.

The bill's program protects owners and their successors from liability to the state and third parties for any contamination at the property that others caused. But this protection does not prevent the DEP commissioner from requiring any remedial action if:

1. the owner provided false information about the property or failed to implement the remediation plan,
2. additional contamination was uncovered at the property after OBRD accepted it into the program, and

3. exposure levels increased to the point threatening human health or the environment.

Eligibility

The program is opened to innocent landowners (i.e., owners who did not cause the pollution on their property), people and entities interested in purchasing a contaminated property (i.e., bona fide prospective purchasers), municipalities, economic development agencies, and people who own property next to a brownfield. The entities qualify only if they did not contaminate the property and are unaffiliated with those that did.

A party may participate in the program if its property is significantly contaminated (based on the bill's criteria) and its remediation will create jobs, increase the municipality's tax base, and address specific land use planning goals, including smart growth and transit oriented development. It also qualifies if the property is being remediated under a DEP program. But the party does not qualify if the property is on the federal government's national priorities list of contaminated property or must be remediated under a state or federal order.

The bill also allows municipalities and economic development agencies to nominate property for participation and requires OBRD to accept these nominations. But it does not prescribe the nomination process.

The bill specifies that acceptance into the program does not prevent an owner from seeking funds under other federal, state, and local programs.

Application

Property owners must apply to OBRD to have their property accepted into the program. An owner must include a title search, environmental condition assessment form, and other documents the bill specifies. The applicant must certify that the information in the application is correct and accurate to the best of the applicant's

knowledge.

Applicants other than municipalities and economic development agencies must pay a \$10,000 application fee, which DEP may use only to prevent pollution from the participating properties from contaminating other property. The bill imposes an additional \$5,000 fee on all applicants when they transfer property.

Process

The bill contemplates a seven-step process for providing liability protection.

1. OBRD must determine if an application is complete within 30 days after receiving it and notify the applicant about its decision. The application is automatically considered complete if OBRD misses this deadline.
2. Within 60 days after notifying the applicant that its application is complete, OBRD must decide whether to accept the property into the program. The property is automatically accepted if OBRD misses this deadline. Once the property is accepted, the bill protects its owner from liability to the state or any third party for pollution released at or from the property, unless the owner caused or contributed to it or exacerbated conditions that caused the pollution release. The owner must investigate and remediate only the contamination within the property according to DEP standards. The owner is not required to address contamination beyond the property unless the owner caused or contributed to it.
3. Within 180 days after OBRD determines that the owner's application is complete, the owner must prepare and submit to OBRD and DEP a plan and schedule to remediate the property, signed and stamped by a licensed environmental professional (LEP). The plan and schedule must provide for the property's remediation within eight years after the application's approval date. During the 180-day period, the owner must notify the

public about the plan and schedule and give 30 days for public comment on them. Within 60 days of notifying the public, the owner must submit its response to the public's comments to OBRD and DEP.

4. DEP has 60 days from receiving the owner's response to the public comments on the plan and schedule to approve or reject it. The plan is automatically approved if DEP misses this deadline. If DEP rejects the plan in whole or in part, DEP must explain its reasons to the owner, who then has 30 days to respond. This process may continue until DEP approves the plan or the owner withdraws from the process.
5. After DEP approves the plan and schedule, the owner may begin remediating the property after notifying the public in the affected town and its health director and posting a notice at the property. An LEP must supervise the work and submit a report to OBRD that includes a verification or interim verification stating that the clean-up met DEP standards. DEP may extend the eight-year deadline if the owner makes reasonable progress toward investigating and remediating the property, but circumstance beyond the owner's control delay the work.
6. DEP has 90 days to approve the report or require the work to be audited. The report is automatically approved if DEP misses this deadline. If DEP requires an audit, the audit must be conducted within six months after DEP required it. The audit report must go to the applicant, the OBRD director, and the LEP. The audit may approve or disapprove the report and state the reasons for the disapproval. The owner may address these reasons using the process the bill provides.
7. After DEP approves the final remedial report, the commissioner must issue a notice indicating that the work is completed and that no further action is needed. The notice must state the scope of the owner's protections, which do not include relief from any liability imposed on the owner under federal and state

environmental protection laws. The DEP commissioner may require an audit 90 days after the LEP submitted the final report if the commissioner believes the report was based on inaccurate, erroneous, or misleading information or the actions the bill specifies are not being taken.

Transfers

The bill allows owners to transfer the property, along with the protections from liability, during or after its remediation. The party acquiring the property must meet the bill's criteria and it or the previous owner must pay a \$5,000 transfer fee to the commissioner. This requirement applies to property municipalities and economic development agencies transfer for redevelopment, but not to property they acquire after remediation. The fee revenue may be used only to address contamination spreading beyond properties in the program. The bill exempts transfers from the Transfer Act.

Regulations

The bill allows the OBRD director to adopt implementing regulations.

REGULATORY CHANGES

§ 4 — Certifying Party's Responsibility under the Transfer Act

The bill limits the certifying party's responsibility under the Transfer Act. Parties involved in the sale or transfer of a potentially contaminated property must complete and submit a Form III, which notifies DEP about the transaction, their knowledge about the property, and the party who will investigate and remediate it (i.e., certifying party). After the certifying party remediates the property, it must complete and submit a Form IV to DEP, certifying that the property was remediate according to state standards.

The bill specifies that the certifying party does not have to investigate or clean up any real or potential contamination that occurs after the transfer date or the date when the parties filed the Form III or IV with the commissioner, which ever is later.

§ 9 — Fee Exemptions

The bill exempts entities receiving state brownfield clean-up and redevelopment funds from paying DEP fees for environmental condition assessment forms; covenants not to sue; Transfer Act forms; and for searching, duplicating, and reviewing records requested under the Freedom of Information Act. The exemption applies to new and pending applications.

The bill similarly exempts state agencies from paying the required fees when investigating or remediating a brownfield for siting a state facility.

§§ 10-12 — Abandoned Brownfield Cleanup (ABC) Program

The bill makes several changes to this DECD program, which protects developers from liability for investigating and remediating contamination that spread from the property before they acquired it. It extends eligibility for protection to (1) municipal agencies and (2) nonprofit organizations and non-stock and limited liability companies acting on a municipality's behalf.

The bill also extends eligibility to more types of brownfields. Under current law, a brownfield qualifies for the program only if it has been unused or significantly underused since October 1, 1999. Under the bill, property qualifies if has been in either condition for at least five years before the developer applied for the program.

The bill extends additional protections and benefits to developers and municipalities whose brownfields were accepted into the program. It exempts them from filing the required Transfer Act forms and paying the covenant not to sue fee. It also designates them "innocent parties" and specifies conditions exempting them from liability to the DEP commissioner and or other parties implementing abatement orders under the statutes or common law. This exemption does not extend to negligent or reckless actions that exacerbated the contamination.

§11—Transfer Act Exemptions

The bill makes a corresponding change to the Transfer Act exempting brownfields participating in the ABC program from the act's requirements. It also exempts title transfers from a municipality or bankruptcy court to a nonprofit organization.

§§ 13 & 14 — Notice of Activity and Use Limitation (NAUL)

The bill authorizes the use of NAULs in addition to environmental land use restrictions. Like these restrictions, NALUs are notices in the land records alerting a prospective purchaser about a property's environmental conditions and restrictions placed on its use. But they can only be enforced against the owner or his or her successors, not lenders and other parties with an interest in the property.

The bill allows owners to record a NAUL to ensure compliance with specified environmental remediation standards and controls. Owners must notify parties with an interest in the property by certified mail at least 60 days before recording the notice. The owner must begin implementing and complying with the notice's requirements once he or she records it. The owner must also comply with the bill's recording requirements.

Lastly, the bill extends the attorney general's and the DEP commissioner's power to enforce environmental land use restrictions to NAULs.

FUNDING

§ 8 — Brownfield Remediation Grant and Loan Program

DECD operates separate grant and loan programs for remediating brownfields that use common definitions and terms. The bill makes it easier for contaminated property to qualify for funding under both programs. It extends eligibility to abandoned or underutilized property where real or potential contamination requiring investigation or remediation may complicate redevelopment, reuse, or expansion. Under current law, a property is eligible for funding only if real or potential contamination prevents it from being redeveloped and reused.

§ 1 — Municipal Brownfield Program

The bill makes permanent and expands the Municipal Brownfield Pilot Program under which DECD provides grants to municipalities for investigating and remediating brownfields. Current law authorizes the commissioner to fund brownfield projects in five municipalities, four based on population criteria and one without regard to population.

In making the program permanent, the bill allows the commissioner to fund more projects, but requires her to do so in separate funding rounds, which the bill does not describe. The bill allows her to fund projects in six municipalities per round, two without regard to the population criterion.

By law, DEP or a licensed environmental professional must supervise the investigation and clean-up. When an LEP supervises the work, current law requires DEP to determine that the work is complete if the LEP submits a report to that effect. The bill gives the DEP commissioner the option to determine that he will not audit the work.

In acknowledging that a project is completed, current law allows the commissioner to indicate that the remedial actions have been taken and that no more action is needed, except onsite monitoring or recording an environmental land use restriction on the property. The bill limits the exceptions to onsite monitoring and allows LEPs, as well as the commissioner, to indicate when the project is completed and no additional remedial action is needed.

§ 18 — CDA Tax Increment Bond Financing

The bill eliminates the July 1, 2012, sunset date for funding new projects under the Connecticut Development Authority's (CDA) tax increment financing program. Under this program, CDA issues bonds on behalf of a municipality and backs them with the new or incremental property tax revenue the completed project generates. The law allows CDA to issue these bonds for (1) cleaning up and redeveloping brownfield projects anywhere in the state and (2)

financing information technology projects in economically distressed municipalities.

REGULATORY REVISIONS

§ 5 — Remediation Standards

The bill requires the DEP commissioner periodically to review standards for remediating contaminated property and recommend changes. He must complete the first review three years after the bill takes effect and every five years after that. He must initiate the five-year reviews by holding a public hearing on the standards' adequacy and revise them if necessary to ensure that the regulations fully protect the health, welfare, and the environment.

In revising the standards, the commissioner must consider (1) how they affect the remediation and redevelopment of brownfields and other contaminated property and (2) the regulations' feasibility and their consistency with the best scientifically available information and federal standards and methods.

§ 6 — Surface and Ground Water Reclassification

The bill allows the DEP commissioner to reclassify surface and ground water beginning March 1, 2011, consistent with the state's water quality standards and applicable federal requirements. The bill's procedures for reclassifying water vary depending on whether the commissioner initiates a reclassification or a person requests it.

If the commissioner initiates reclassification, he must hold a hearing on the proposal, providing separate notice of the hearing's time, date, and place to the public (by newspaper) and municipal officials in the area the proposed reclassification affects. The bill specifies that the hearing does not constitute a contested case, one where a government agency must determine a person's legal rights, duties, or privileges after he or she was heard. After the hearing, the commissioner must provide notice of his decision in the *Connecticut Law Journal* and to the chief elected officials and public health directors in the municipalities the reclassification affects.

People requesting a reclassification must apply to the commissioner and provide any information he requests. The commissioner must notify the public about the hearing at the applicant's expense. The notice must identify the applicant and the affected waters, indicate the commissioner's tentative decision about the proposed reclassification, and provide the other information the bill requires. The notice must be mailed to the chief executive officers and the public health directors in the affected municipalities at least 30 days before the hearing.

Unlike the hearings held on the commissioner's proposals, the bill is silent on whether this hearing is a contested case. After the hearing, the commissioner must provide notice of his decision the same way he provides notice of the reclassifications he initiates.

§ 7 — Remediation Programs Evaluation

The bill requires the DEP commissioner to begin evaluating the state's brownfield remediation programs and the laws that affect this activity within seven days after the bill takes effect. He must report his findings to the governor and the Commerce and Environment committees by February 12, 2012. The commissioner must do this within available appropriations and address these points:

1. factors that influence the time it takes to investigate and remediate a brownfield;
2. the number of properties that enter each remediation program, the rate at which they do so, and the number that complete each program's requirements;
3. the use of LEPs in expediting the remediation process;
4. verification audits LEPs complete;
5. statutory programs providing liability relief to existing and potential landowners;
6. comparison of existing remediation programs to states with a single program;

7. the commissioner's use of studies and other resources available from various organizations; and
8. recommendations to address the report's issues or streamline or expedite the remediation process.

ADMINISTRATIVE CAPACITY

§ 1 — Office of Brownfield Remediation and Redevelopment

The bill explicitly authorizes the OBRD to promote and encourage people and organizations to clean up and develop or redevelop brownfields. It updates OBRDs statutory duties. It also requires the commissioner to appoint a director to oversee OBRD with the staff, money, and other resources the office needs to fulfill its mission. The bill requires the director to report directly to the commissioner.

The bill requires the Office of Policy and Management to designate at least one staff person to serve as its liaison to OBRD and execute a memorandum of understanding with OBRD in which the two offices specify their respective responsibilities. Current law imposes these requirements on the departments of Environmental Protection and Public Health and the Connecticut Development Authority.

§ 16 — Brownfields Working Group

The bill extends the term of the working group to February 15, 2012, from January 15, 2011, and adds two more members, both appointed by the governor. The group was formed under PA 10-135 to study how the state's brownfields were being cleaned up and remediated. It includes the DECD and DEP commissioners, whom the bill designates as the group's co-chairpersons. Under current law, the members appoint the chairpersons.

BACKGROUND

Related Bills

HB 6221 and sHB 6527 (File 410) eliminate the July 1, 2012, sunset for funding projects with CDA bonds backed by incremental property tax revenue. The Commerce Committee favorably reported HB 6221 to

the Finance Committee on February 15 and sHB 6527 to the floor on March 22.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/22/2011)